IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WP(C).No. 5242 of 2006(Y)

PETITIONER:

B. SHARAFUDEEN, S/O. VAVAKUNJU LEBBA
SAHIR MANZIL, KUNNICODE, CONDUCTOR,
KERALA STATE ROAD TRANSPORT CORPORATION
KOTTARAKKARA.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:

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1. KERALA STATE ROAD TRANSPORT
CORPORATION REP. BY SECRETARY,
HEAD OFFICE, TRIVANDRUM.

2. DISTRICT TRANSPORT OFFICER,
DISTRICT TRANSPORT OFFICE, KOTTARAKKARA.

3. B. GOPALA KRISHNAN NAIR,
STATION MASTER, KSRTC, THIRUVANANTHAPURAM
CITY UNIT, THIRUVANANTHAPURAM.

4. K.K. VELAYUDHAN, STATION MASTER
KSRTC, KATTAPPANA, IDUKKI DISTRICT.

5. M. SIMON, STATION MASTER,
KSRTC, MAVELIKKARA P.O.

6. JOSEPH MATHEW, STATION MASTER
KSRTC, THRIRUVALLA.

7. K. MADHAVAN PILLAI, STATION MASTER
KSRTC, SAKTHIKULANGARA, KOLLAM.

8. B. RAJENDRAN PILLAI, STATION MASTER
KSRTC, PATHANAMTHITTA.

9. M. MOHANAN, STATION MASTER
KSRTC, TRIVANDRUM CITY, TRIVANDRUM.

10. P. SASIDHARAN NAIR, STATION MASTER
KSRTC, CHATHANNOOR, KOLLAM DISTRICT.

11. D. SACHIDANANDAN, STATION MASTER,
KSRTC, KODUNGALLOOR.

12. K. HARI NARAYANA PILLAI,
STATION MASTER, TRIVANDRUM CITY CORPORATION
TRIVANDRUM.

13. K.N. MONY, STATION MASTER,
KSRTC, KATTAPPANA.

R1 & R2 BY ADV.SRI.SAJEEVKUMAR K.GOPAL, SC.
R12 BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.5242/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE PHOTO COPY OF APPOINTMENT ORDER DT.28.4.78

EXT.P2 – TRUE PHOTO COPY OF ORDER DT.6.12.93 PASSED BY KSRTC.

EXT.P3 – TRUE PHOTO COPY OF RELEVANT PAGES OF REVISED GRADATION LIST PUBLISHED ON 1.4.01.

EXT.P4 – TRUE PHOTO COPY OF STATION MASTERS PROMOTION LIST PL-10-000170/06 – SCALE OF RS.4520-9960

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C) No.5242 OF 2006

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DATED THIS THE 18TH DECEMBER, 2006

J U D G M E N T

Under Ext.P1 order the petitioner was appointed as Reserve Conductor in the 1st respondent-K.S.R.T.C. on daily wages as advised by the Public Service Commission with effect from 29.4.1978. It is stated in Ext.P1 that subject to availability of vacancies, the petitioner will be absorbed in the service of the Corporation. Thereafter, he was absorbed in the Corporation in a permanent post and he was rendering service without any blemish. While so, he was granted five years' leave without allowance for overseas employment. Ext.P2 is the order passed by the Corporation in that regard. It is stated in Ext.P2 that the petitioner is not eligible for promotion during the period of leave and that his rank will be refixed as on the date of rejoining duty after termination of the leave. The 1st respondent-K.S.R.T.C. has published a revised gradation list of conductors as on 1.4.2001. The petitioner's rank therein is 1563. His date of confirmation in service is 16.10.1979 and date of appointment to the present post is 4.3.2000. Ext.P3 is copy of relevant pages of the revised gradation list published on 1.4.2001. The petitioner points out that the 1st respondent-Corporation has provisionally promoted 30 persons as Station Masters.

Ext.P4 is copy of promotion list. The petitioner's name is not included in Ext.P4. Respondents 3 to 13 are juniors to the petitioner in Ext.P3 gradation list. The petitioner contends that no valid reasons are assigned for denying promotion to the petitioner. He refers to Rule 28 (b)(ii) of Part II, K.S. & S.S.R. which provides that promotions or appointments by transfer to higher posts shall be in accordance with seniority. According to the petitioner, he is the seniormost candidate to be promoted. So long as he is not being promoted, his juniors (respondents 3 to 13) are not liable to be promoted. On these averments, the petitioner has raised several grounds and filed this Writ Petition for issuance of a writ of certiorari quashing Ext.P4 and to hold that the petitioner is entitled to be promoted to the post of Station Master. The petitioner also seeks a mandamus to the 1st respondent-K.S.R.T.C. to promote him as Station Master in a higher rank than respondents 3 to 13.

2. A detailed counter affidavit has been filed by the K.S.R.T.C. justifying Ext.P4. No counter affidavit has been filed by respondents 3 to 13 all of whom have been served with notice.

3. I have heard the learned counsel for the petitioner and the learned Standing Counsel for the K.S.R.T.C. I find force in the

submissions of Sri.R.Anilkumar, counsel for the petitioner that the issue is covered in favour of the petitioner by my own judgment in W.P.(C)No.12721 of 2005. For the reasons stated in that judgment I hold that the 1st respondent's action in overlooking the seniority of the petitioner and in promoting respondents 3 to 13 before promoting the petitioner is illegal.

The Writ Petition accordingly will stand allowed issuing the following directions:

The 1st respondent will promote the petitioner as Station Master and assign to him a higher rank than respondents 3 to 13 within one month of receiving copy of this judgment. All monetary benefits flowing out of compliance with the above direction will also be released to the petitioner without delay. There will be no order as to costs.

(PIUS C. KURIAKOSE, JUDGE)

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